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FILED

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US DISTRICT COURT
DISTRICT OF NEVADA

7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 vs.

12 KENNETH EARL SMITH, JR.,

13 Defendant.

Case No. 2:21-mj-00860-NJK

COMPLAINT for violations of:

COUNTS ONE through SEVEN:
18 U.S.C. §§ 922(a)(6) and 924(a)(2) –
Illegal Acquisition of a Firearm

COUNT EIGHT:
18 U.S.C. §§ 922(a)(1)(A), 923(a), and
924(a)(1)(D) – Engaging in the Business
Without a License (Firearms)

16
17 BEFORE the Honorable Nancy J. Koppe, United States Magistrate Judge, Las
18 Vegas, Nevada, the undersigned Complainant, being duly sworn, deposes and states:

19 COUNT ONE
Illegal Acquisition of a Firearm
20 18 U.S.C. §§ 922(a)(6) and 924(a)(2)

21 On or about May 13, 2020, in the State and Federal District of Nevada,
22 KENNETH EARL SMITH, JR.,
23 defendant, in connection with the acquisition of firearms, specifically: a Ruger model
24 SR40 .40 caliber semiautomatic pistol bearing serial number 342-82366; an FN America

1 model FN-509 9mm semiautomatic pistol bearing serial number GKS0060988, and; a
2 Glock model 19X 9mm semiautomatic pistol bearing serial number BHUK354, from Cash
3 America #2011, doing business as Super Pawn, a licensed dealer of firearms within the
4 meaning of Chapter 44 of Title 18, United States Code, knowingly made and caused to be
5 made false and fictitious written statements to Cash America #2011, which statement was
6 intended and likely to deceive Cash America #2011, as to a fact material to the lawfulness
7 of such sale of said firearms to the defendant under Chapter 44 of Title 18, United States
8 Code, in that SMITH did complete and execute a Bureau of Alcohol, Tobacco, Firearms
9 and Explosives Form 4473 Firearms Transaction Record, wherein SMITH represented
10 that he was the actual transferee/buyer of the firearms listed on the form, when in fact,
11 and as SMITH well knew, he was acquiring the firearms on behalf of other persons, that
12 his current state of residence was Nevada, when in fact, and as SMITH well knew, he was
13 not a resident of Nevada, and that his current residence was 10120 W Flamingo RD STE
14 4-1062, Las Vegas NV 89147, when in fact, and as SMITH well knew, that address was
15 not his residence, but the address of a commercial mail box; all in violation of Title 18,
16 United States Code, Sections 922(a)(6) and 924(a)(2).

17 COUNT TWO

18 Illegal Acquisition of a Firearm
18 18 U.S.C. §§ 922(a)(6) and 924(a)(2)

19 On or about July 22, 2020, in the State and Federal District of Nevada,

20 KENNETH EARL SMITH, JR.,

21 defendant, in connection with the acquisition of a firearm, specifically: a Glock model 45
22 9mm semiautomatic pistol bearing serial number BKTC131, from Discount Firearms, a
23 licensed dealer of firearms within the meaning of Chapter 44 of Title 18, United States
24 Code, knowingly made and caused to be made a false and fictitious written statement to

Discount Firearms, which statement was intended and likely to deceive Discount Firearms as to a fact material to the lawfulness of such sale of said firearm to the defendant under Chapter 44 of Title 18, United States Code, in that SMITH did complete and execute a Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473 Firearms Transaction Record, wherein SMITH represented that he was the actual transferee/buyer of the firearm listed on the form, when in fact, and as SMITH well knew, he was acquiring the firearm on behalf of other persons, that his current state of residence was Nevada, when in fact, and as SMITH well knew, he was not a resident of Nevada, and that his current residence was 3749 Carlyle Dr, Apt. 57, Las Vegas, NV 89115, when in fact, and as SMITH well knew, he did not reside at that address; all in violation of Title 18, United States Code, Sections 922(a)(6) and 924(a)(2).

COUNT THREE

Illegal Acquisition of a Firearm 18 U.S.C. §§ 922(a)(6) and 924(a)(2)

On or about August 23, 2020, in the State and Federal District of Nevada,

KENNETH EARL SMITH, JR.,

defendant, in connection with the acquisition of firearms, specifically: a Taurus Armas model PT111 G2A 9mm semiautomatic pistol bearing serial number TMA09526; a Kimber model Micro-9 Stainless 9mm semiautomatic pistol bearing serial number KRF12133; an HS Produkt - Springfield Armory Inc. model XD45-LE .45 caliber semiautomatic pistol bearing serial number US550468, and; a Smith & Wesson model SD9-VE 9mm semiautomatic pistol bearing serial number FCM4128, from Super Pawn #2022, a licensed dealer of firearms within the meaning of Chapter 44 of Title 18, United States Code, knowingly made and caused to be made a false and fictitious written statement to Super Pawn #2022, which statement was intended and likely to deceive

1 Super Pawn #2022 as to a fact material to the lawfulness of such sale of said firearms to
2 the defendant under Chapter 44 of Title 18, United States Code, in that SMITH did
3 complete and execute a Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473
4 Firearms Transaction Record, wherein SMITH represented that he was the actual
5 transferee/buyer of the firearm listed on the form, when in fact, and as SMITH well knew,
6 he was acquiring the firearm on behalf of other persons, that his current state of residence
7 was Nevada, when in fact, and as SMITH well knew, he was not a resident of Nevada,
8 and that his current residence was 3749 Carlyle Dr, Apt. 57, Las Vegas, NV 89115, when
9 in fact, and as SMITH well knew, he did not reside at that address; all in violation of Title
10 18, United States Code, Sections 922(a)(6) and 924(a)(2).

11 COUNT FOUR

12 Illegal Acquisition of a Firearm
18 U.S.C. §§ 922(a)(6) and 924(a)(2)

13 On or about September 15, 2020, in the State and Federal District of Nevada,

14 KENNETH EARL SMITH, JR.,

15 defendant, in connection with the acquisition of firearms, specifically: a Taurus Armas
16 model 856 .38 Special +P Ultra-Lite revolver bearing serial number MU10945; a Ruger
17 model P89 9mm semiautomatic pistol bearing serial number 309-45588; a Ruger model
18 LCP .380 caliber semiautomatic pistol bearing serial number 371915132; a Phoenix Arms
19 model HP-25A .25 caliber semiautomatic pistol bearing serial number 4280221, and; an
20 SCCY Industries model CPX-2 9mm semiautomatic pistol bearing serial number 741731,
21 from Cash America #2011, doing business as Super Pawn, a licensed dealer of firearms
22 within the meaning of Chapter 44 of Title 18, United States Code, knowingly made and
23 caused to be made a false and fictitious written statement to Cash America #2011, which
24 statement was intended and likely to deceive Cash America #2011, as to a fact material to

1 the lawfulness of such sale of said firearms to the defendant under Chapter 44 of Title 18,
2 United States Code, in that SMITH did complete and execute a Bureau of Alcohol,
3 Tobacco, Firearms and Explosives Form 4473 Firearms Transaction Record, wherein
4 SMITH represented that he was the actual transferee/buyer of the firearm listed on the
5 form, when in fact, and as SMITH well knew, he was acquiring the firearm on behalf of
6 other persons, that his current state of residence was Nevada, when in fact, and as SMITH
7 well knew, he was not a resident of Nevada, and that his current residence was 3749
8 Carlyle Dr, Apt. 57, Las Vegas, NV 89115, when in fact, and as SMITH well knew, he did
9 not reside at that address; all in violation of Title 18, United States Code, Sections
10 922(a)(6) and 924(a)(2).

11 COUNT FIVE

12 Illegal Acquisition of a Firearm
18 U.S.C. §§ 922(a)(6) and 924(a)(2)

13 On or about October 22, 2020, in the State and Federal District of Nevada,

14 KENNETH EARL SMITH, JR.,

15 defendant, in connection with the acquisition of a firearm, specifically: a Taurus Armas
16 model G3 9mm semiautomatic pistol bearing serial number ABH813657, from
17 Sportsman's Warehouse, a licensed dealer of firearms within the meaning of Chapter 44 of
18 Title 18, United States Code, knowingly made and caused to be made a false and fictitious
19 written statement to Sportsman's Warehouse which statement was intended and likely to
20 deceive Sportsman's Warehouse as to a fact material to the lawfulness of such sale of said
21 firearm to the defendant under Chapter 44 of Title 18, United States Code, in that SMITH
22 did complete and execute a Bureau of Alcohol, Tobacco, Firearms and Explosives Form
23 4473 Firearms Transaction Record, wherein SMITH represented that he was the actual
24 transferee/buyer of the firearm listed on the form, when in fact, and as SMITH well knew,

1 he was acquiring the firearm on behalf of other persons, that his current state of residence
2 was Nevada, when in fact, and as SMITH well knew, he was not a resident of Nevada,
3 and that his current residence was 3749 Carlyle Dr, Apt. 57, Las Vegas, NV 89115, when
4 in fact, and as SMITH well knew, he did not reside at that address; all in violation of Title
5 18, United States Code, Sections 922(a)(6) and 924(a)(2).

6 COUNT SIX

7 Illegal Acquisition of a Firearm
8 18 U.S.C. §§ 922(a)(6) and 924(a)(2)

9 On or about January 11, 2021, in the State and Federal District of Nevada,

10 KENNETH EARL SMITH, JR.,

11 defendant, in connection with the acquisition of firearms, specifically: a Taurus Armas
12 model G3c 9mm semiautomatic pistol bearing serial number ABM262312; a Taurus
13 Armas model G3c 9mm semiautomatic pistol bearing serial number ABM262533, and; a
14 SAR USA model SAR9 9mm semiautomatic pistol bearing serial number
15 T110220BV76045, from C-A-L Ranch Stores, a licensed dealer of firearms within the
16 meaning of Chapter 44 of Title 18, United States Code, knowingly made and caused to be
17 made a false and fictitious written statement to C-A-L Ranch Stores, which statement was
18 intended and likely to deceive C-A-L Ranch Stores as to a fact material to the lawfulness
19 of such sale of said firearms to the defendant under Chapter 44 of Title 18, United States
20 Code, in that SMITH did complete and execute a Bureau of Alcohol, Tobacco, Firearms
21 and Explosives Form 4473 Firearms Transaction Record, wherein SMITH represented
22 that he was the actual transferee/buyer of the firearm listed on the form, when in fact, and
23 as SMITH well knew, he was acquiring the firearm on behalf of other persons, that his
24 current state of residence was Nevada, when in fact, and as SMITH well knew, he was not
a resident of Nevada, and that his current residence was 3749 Carlyle Dr, Apt. 57, Las

1 Vegas, NV 89115, when in fact, and as SMITH well knew, he did not reside at that
2 address; all in violation of Title 18, United States Code, Sections 922(a)(6) and 924(a)(2).

3 COUNT SEVEN

4 Illegal Acquisition of a Firearm
5 18 U.S.C. §§ 922(a)(6) and 924(a)(2)

6 On or about August 12, 2021, in the State and Federal District of Nevada,

7 KENNETH EARL SMITH, JR.,

8 defendant, in connection with the acquisition of a firearm, specifically: a Smith & Wesson
9 model MP-40 .40 caliber semiautomatic pistol bearing serial number NKV8810, from
10 Spartan Arms, a licensed dealer of firearms within the meaning of Chapter 44 of Title 18,
11 United States Code, knowingly made and caused to be made a false and fictitious written
12 statement to Spartan Arms, which statement was intended and likely to deceive Spartan
13 Arms as to a fact material to the lawfulness of such sale of said firearm to the defendant
14 under Chapter 44 of Title 18, United States Code, in that SMITH did complete and
15 execute a Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473 Firearms
16 Transaction Record, wherein SMITH represented that he was the actual transferee/buyer
17 of the firearm listed on the form, when in fact, and as SMITH well knew, he was acquiring
18 the firearm on behalf of other persons, that his current state of residence was Nevada,
19 when in fact, and as SMITH well knew, he was not a resident of Nevada, and that his
20 current residence was 3749 Carlyle Dr, Apt. 57, Las Vegas, NV 89115, when in fact, and
21 as SMITH well knew, he did not reside at that address; all in violation of Title 18, United
22 States Code, Sections 922(a)(6) and 924(a)(2).
23
24

COUNT EIGHT

Engaging in the Business Without a License (Firearms)
18 U.S.C. §§ 922(a)(1)(A), 923(a), and 924(a)(1)(D)

Between on or about February 17, 2020, and on or about October 12, 2021, in the
State and Federal District of Nevada and elsewhere,

KENNETH EARL SMITH, JR.,

defendant, not being a licensed dealer of firearms within the meaning of Chapter 44, Title
18, United States Code, did willfully engage in the business of dealing in firearms, in
violation of Title 18, United States Code, Sections 922(a)(1)(A), 923(a), and 924(a)(1)(D).

PROBABLE CAUSE AFFIDAVIT

1. Your Complainant, Spiros Mavronas, as a Special Agent with the Bureau of
Alcohol, Tobacco, Firearms, and Explosives (ATF), states the following as and for probable
cause:

2. Your Complainant is a Special Agent with the ATF and has been so
employed since March 2020. Prior to ATF, your Complainant worked as an Adult
Probation & Parole Officer in Pennsylvania for four (4) years followed by working as a
Federal Police Officer in Washington DC for six (6) years. During this time, your
Complainant has investigated, among other things, violations of the federal firearms and
narcotics laws, as well as crimes of violence and gang-related crimes. Your Complainant
has participated in the execution of criminal arrests and have received training in, among
other things, criminal procedure, search and seizure, firearms and narcotics investigations,
and the identification and investigation of organized gangs. Your Complainant is an
investigative or law enforcement officer of the United States within the meaning of 18
U.S.C. § 2510(7), that is, an officer of the United States who is empowered by law to
conduct investigations of and to make arrests for offenses enumerated in 18 U.S.C. § 2516.

1 3. Your Complainant has been involved in an investigation which is the
2 subject of this Affidavit. Due to your Complainant's personal participation in this
3 investigation and reports made to your Complainant by other ATF Agents, Las Vegas
4 Metropolitan Police Department ("LVMPD") Officers and Detectives, the Hayward
5 Police Department (HPD), the Los Angeles Police Department (LAPD), the Kern County
6 Sheriff's Office (KCSO) or another law enforcement officers, your Complainant is
7 familiar with all of the facts and circumstances surrounding the investigation. Your
8 Complainant's training and experience as a Special Agent, including participation in this
9 investigation, form the basis for opinions and conclusions set forth below. While your
10 Complainant has participated in the below described investigation, your Complainant has
11 not provided every fact known to him within this Complaint. Rather, your Complainant
12 has included only those facts necessary to establish probable cause.

13 FACTS ESTABLISHING PROBABLE CAUSE

14 4. As of the date of this Affidavit, an investigation by the ATF Las Vegas Field
15 Office has determined that Kenneth Earl SMITH, Jr., purchased fifty-one (51) firearms
16 from various Federal Firearms Licensees (FFLs) in Clark County, Nevada in 31
17 transactions between March 5, 2020, and August 12, 2021. As of the date of this
18 Complaint, law enforcement has recovered eight (8) of those firearms were recovered in
19 criminal investigations in California from eight different persons other than SMITH. None
20 of the persons from whom those eight firearms were recovered had registered the firearm
21 as required by the laws of the State of California. One of the persons from whom one of
22 the firearms was recovered was a person prohibited from possessing a firearm under 18
23 U.S.C. § 922(g).
24

1 5. Counts one through seven reflect seven separate transactions between
2 SMITH and the FFL identified in the particular count. The eight firearms bought by
3 SMITH and later recovered from other persons by law enforcement are charged in counts
4 one through six, along with the other firearms that were part of each of those purchases by
5 SMITH.

6 6. Records obtained by the ATF Las Vegas Field Office show that at all times
7 relevant to the investigation, SMITH was a resident of the State of California, and the
8 number and street address of his residence was 6040 Tulip Circle, Quartz Hill, California
9 93536. The 6040 Tulip Circle address is sometimes given as being in Lancaster, California.
10 Both addresses identify the same physical residence.

11 7. Through the course of the investigation, the ATF Las Vegas Field Office
12 learned that SMITH obtained two Nevada driver's licenses with different false residential
13 addresses and used those fraudulently obtained state identification documents showing
14 false addresses to purchase the 51 firearms. On May 30, 2020, SMITH applied for and
15 later received a Nevada Concealed Firearm Permit (CFP), colloquially known as a CCW,
16 using those state identification documents showing false addresses. As a result, the CCW
17 also bore a false residential address. Thereafter, SMITH used the fraudulently obtained
18 Nevada CCW to bypass background checks to purchase the firearms.

19 8. Through the course of the investigation, the ATF Las Vegas Field Office
20 learned that on or about February 17, 2020, SMITH rented a mail delivery box from a
21 Commercial Mail Receiving Agency (CMRA), PostNet, at 10120 West Flamingo Road,
22 Suite 4, in Las Vegas, Nevada, identifying his residential address as 6040 Tulip Circle,
23 Lancaster CA 93536. On or about February 20, 2020, SMITH then applied to the Nevada
24 Department of Motor Vehicles (DMV) for a Nevada Driver's License (DL), providing the

1 CMRA mail delivery box as his "primary physical address (principal residence)," that is,
2 "10120 West Flamingo Road, Suite 4-1062, Las Vegas, Nevada 89147." SMITH then
3 provided "6040 Tulip Circle, Lancaster CA 93536" to the DMV as his "mailing address."
4 DMV records show that on February 21, 2020, a DMV employee mailed the license
5 bearing the 10120 West Flamingo Road, Suite 4-1062, Las Vegas, Nevada 89147 address
6 to the "mailing address" provided by SMITH, "6040 Tulip Circle, Lancaster, California
7 93536."

8 9. On or about May 30, 2020, SMITH applied to LVMPD for a Concealed
9 Firearm Permit (CFP), colloquially known as a CCW. In the section of the application
10 titled "Physical Address," with the additional explanation "Note: No P.O. Box Address,"
11 SMITH gave his physical address as "10120 West Flamingo Road, Suite 4-1062, Las
12 Vegas, Nevada 89147," again falsely representing that the CMRA mail delivery box was a
13 physical residence. SMITH then gave "6040 Tulip Circle, Quartz Hill, California 93536"
14 as his "Mailing Address." SMITH answered the question "Are you a Clark County,
15 Nevada Resident?" with "Yes." According to a form SMITH submitted to LVMPD in
16 connection with the application, SMITH had attended a Nevada Sheriffs' and Chiefs'
17 Association Firearms Safety Course at a range in Henderson, Nevada, on or about May
18 14 and 15, 2020. As is their practice, LVMPD mailed the CCW to the "mailing address"
19 provided by SMITH, "6040 Tulip Circle, Quartz Hill, California 93536."

20 10. On June 21, 2020, SMITH changed his address through the Nevada DMV
21 online portal to "3749 Carlyle Drive, Apartment 57, Las Vegas, Nevada 89115." As is
22 their practice, the DMV mailed that new license bearing the "3749 Carlyle Drive,
23 Apartment 57, Las Vegas, Nevada 89115" address to the "mailing address" SMITH
24 previously provided to the DMV, that is, 6040 Tulip Circle, Lancaster, California 93536.

11. In order to sell firearms as a business, a person must be licensed by the ATF as a Federal Firearms License (FFL). A review of ATF records showed that ATF has not licensed SMITH as an FFL.

12. When an FFL sells a firearm, the FFL is required to verify that the person to whom the firearm is transferred or sold is lawfully able to purchase and possess a firearm. The FFL is required to record and report the sale using, among other means, ATF Form 4473, Firearms Transaction Record, ATF Form 5300.9A, Firearms Transaction Record Continuation Sheet, and ATF Form 3310, Report of Multiple Sale or Other Disposition of Pistols.

13. The buyer of the firearm must personally complete Section B of the ATF Form 4473, attesting:

I certify that my answers in Section B are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. I understand that answering "yes" to question 21.a. if I am not the actual transferee/buyer is a crime punishable as a felony under Federal law and may also violate State and/or local law. I understand that a person who answers "yes" to any of the questions 21.b. through 21.k. is prohibited from receiving or possessing a firearm. I understand that a person who answers "yes" to question 21.l.1. is prohibited from receiving or possessing a firearm, unless the person answers "yes" to question 21.l.2. and provides the documentation required in 26.d. I also understand that making any false oral or written statement or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony under Federal law and may also violate State

1 and/or local law. I further understand that the repetitive purchase of
2 firearms for the purpose of resale for livelihood and profit without a
3 Federal firearms license is a violation of Federal law.

4 14. Question 10 in Section B of the ATF Form 4473 requires the buyer to
5 provide his or her "Current State of Residence and Address (U.S. postal abbreviations are
6 acceptable. Cannot be a post office box.)." Questions 21a through k and 21.1.1 and 21.1.2
7 in Section B of the ATF Form 4473 requires the buyer to "answer ... by checking or
8 marking either the 'yes' or 'no' box to the right of the questions." Question 21a asks:

9 Are you the actual transferee/buyer of the firearm(s) listed on this form
10 and any continuation sheet(s) (ATF Form 5300.9A)? Warning: You are
11 not the actual transferee/buyer if you are acquiring the firearm(s) on behalf
12 of another person. If you are not the actual transferee/buyer, the licensee
13 cannot transfer the firearm(s) to you. Exception: If you are only picking up
14 a repaired firearm(s) for another person, you are not required to answer
15 21.a. and may proceed to question 21.b.

16 15. The seller must complete Section C of the ATF Form 4473 prior to transfer
17 of the firearms, recording in block 26a the "valid government-issued photo identification"
18 presented by the buyer. The seller must obtain a background check from the National
19 Instant Criminal Background Check System (NICS) or an appropriate state agency,
20 recording that check and the result of in blocks 27a through g. However, a buyer who has
21 obtained a CCW is not required to undergo a NICS check. In those circumstances, the
22 seller must indicate in block 29 that "no NICS check is required because the
23 transferee/buyer has a valid permit from the State where the transfer is to take place,
24 which qualifies as an exemption to NICS," and record the issuing state and permit type,

1 the date of issuance, the expiration date, and permit number. FFLs often retain
2 photocopies of the identification and CCW presented by the buyer in their records. FFLs
3 are required to retain the ATF Forms 4473 for 20 years.

4 16. All but one of the 51 firearms SMITH bought from FFLs in Clark County,
5 Nevada between March 5, 2020, and August 12, 2021 that have been identified to date in
6 this investigation was a handgun. Many of the handguns were compact or subcompact
7 handguns that are known to your Complainant as highly trafficked firearm types. SMITH
8 frequently bought multiple copies of the same or similar model handgun, sometimes in the
9 same purchase. In nearly all of the purchases, SMITH paid cash for the firearms.

10 17. With regard to Count One, the ATF investigation showed that Cash
11 America #2011, doing business as Super Pawn, is an FFL, that is, a licensed dealer of
12 firearms within the meaning of Chapter 44 of Title 18, United States Code. On May 13,
13 2020, SMITH completed Section B of an ATF Form 4473 in connection with the
14 purchase of three firearms from Cash America #2011: a Ruger model SR40 .40 caliber
15 semiautomatic pistol bearing serial number 342-82366; an FN America model FN-509
16 9mm semiautomatic pistol bearing serial number GKS0060988, and; a Glock model 19X
17 9mm semiautomatic pistol bearing serial number BHUK354. SMITH represented that he
18 was the actual transferee/buyer of the firearms listed on the form, when in fact, and as
19 SMITH well knew, he was acquiring the firearms on behalf of other persons, that his
20 current state of residence was Nevada, when in fact, and as SMITH well knew, he was
21 not a resident of Nevada, and that his current residence was 10120 W Flamingo RD STE
22 4-1062, Las Vegas NV 89147, when in fact, and as SMITH well knew, that address was
23 not his residence, but the address of a commercial mail box. SMITH's false statements
24 were material; that is, the false statements had a natural tendency to influence, or were

1 capable of influencing the Cash America #2011 into believing that the specified firearms
2 could be lawfully sold to the SMITH. Law enforcement agents subsequently recovered
3 the Ruger model SR40 .40 caliber semiautomatic pistol bearing serial number 342-82366
4 and the FN America model FN-509 9mm semiautomatic pistol bearing serial number
5 GKS0060988 from persons other than SMITH.

6 18. With regard to Count Two, the ATF investigation showed that Discount
7 Firearms is an FFL, that is, a licensed dealer of firearms within the meaning of Chapter
8 44 of Title 18, United States Code. On July 22, 2020, SMITH completed Section B of an
9 ATF Form 4473 in connection with the purchase of a firearm from Discount Firearms: a
10 Glock model 45 9mm semiautomatic pistol bearing serial number BKTC131. SMITH
11 represented that he was the actual transferee/buyer of the firearm listed on the form,
12 when in fact, and as SMITH well knew, he was acquiring the firearm on behalf of other
13 persons, that his current state of residence was Nevada, when in fact, and as SMITH well
14 knew, he was not a resident of Nevada, and that his current residence was 3749 Carlyle
15 Dr, Apt. 57, Las Vegas, NV 89115, when in fact, and as SMITH well knew, , he did not
16 reside at that address. SMITH's false statements were material; that is, the false
17 statements had a natural tendency to influence, or were capable of influencing the
18 Discount Firearms into believing that the specified firearm could be lawfully sold to the
19 SMITH. Law enforcement agents subsequently recovered the Glock model 45 9mm
20 semiautomatic pistol bearing serial number BKTC131 from a person other than SMITH.

21 19. With regard to Count Three, the ATF investigation showed that Super
22 Pawn #2022 is an FFL, that is, a licensed dealer of firearms within the meaning of
23 Chapter 44 of Title 18, United States Code. On August 23, 2020, SMITH completed
24 Section B of an ATF Form 4473 in connection with the purchase of four firearms from

1 Super Pawn #2022: a Taurus Armas model PT111 G2A 9mm semiautomatic pistol
2 bearing serial number TMA09526; a Kimber model Micro-9 Stainless 9mm
3 semiautomatic pistol bearing serial number KRF12133; an HS Produkt - Springfield
4 Armory Inc. model XD45-LE .45 caliber semiautomatic pistol bearing serial number
5 US550468, and; a Smith & Wesson model SD9-VE 9mm semiautomatic pistol bearing
6 serial number FCM4128. SMITH represented that he was the actual transferee/buyer of
7 the firearms listed on the form, when in fact, and as SMITH well knew, he was acquiring
8 the firearms on behalf of other persons, that his current state of residence was Nevada,
9 when in fact, and as SMITH well knew, he was not a resident of Nevada, and that his
10 current residence was 3749 Carlyle Dr, Apt. 57, Las Vegas, NV 89115, when in fact, and
11 as SMITH well knew, he did not reside at that address. SMITH's false statements were
12 material; that is, the false statements had a natural tendency to influence, or were capable
13 of influencing the Super Pawn #2022 into believing that the specified firearms could be
14 lawfully sold to the SMITH. Law enforcement agents subsequently recovered the Smith
15 & Wesson model SD9-VE 9mm semiautomatic pistol bearing serial number FCM4128
16 from a person other than SMITH.

17 20. With regard to Count Four, the ATF investigation showed that Cash
18 America #2011, doing business as Super Pawn, is an FFL, that is, a licensed dealer of
19 firearms within the meaning of Chapter 44 of Title 18, United States Code. On
20 September 15, 2020, SMITH completed Section B of an ATF Form 4473 in connection
21 with the purchase of five firearms from Cash America #2011: a Taurus Armas model 856
22 .38 Special +P Ultra-Lite revolver bearing serial number MU10945; a Ruger model P89
23 9mm semiautomatic pistol bearing serial number 309-45588; a Ruger model LCP .380
24 caliber semiautomatic pistol bearing serial number 371915132; a Phoenix Arms model

1 HP-25A .25 caliber semiautomatic pistol bearing serial number 4280221, and; an SCCY
2 Industries model CPX-2 9mm semiautomatic pistol bearing serial number 741731.
3 SMITH represented that he was the actual transferee/buyer of the firearms listed on the
4 form, when in fact, and as SMITH well knew, he was acquiring the firearms on behalf of
5 other persons, that his current state of residence was Nevada, when in fact, and as
6 SMITH well knew, he was not a resident of Nevada, and that his current residence was
7 3749 Carlyle Dr, Apt. 57, Las Vegas, NV 89115, when in fact, and as SMITH well knew,
8 he did not reside at that address. SMITH's false statements were material; that is, the
9 false statements had a natural tendency to influence, or were capable of influencing the
10 Cash America #2011 into believing that the specified firearms could be lawfully sold to
11 the SMITH. Law enforcement agents subsequently recovered the SCCY Industries model
12 CPX-2 9mm semiautomatic pistol bearing serial number 741731 from a person other than
13 SMITH.

14 21. With regard to Count Five, the ATF investigation showed that
15 Sportsman's Warehouse, is an FFL, that is, a licensed dealer of firearms within the
16 meaning of Chapter 44 of Title 18, United States Code. On October 22, 2020, SMITH
17 completed Section B of an ATF Form 4473 in connection with the purchase of a firearm
18 from Sportsman's Warehouse: a Taurus Armas model G3 9mm semiautomatic pistol
19 bearing serial number ABH813657. SMITH represented that he was the actual
20 transferee/buyer of the firearms listed on the form, when in fact, and as SMITH well
21 knew, he was acquiring the firearms on behalf of other persons, that his current state of
22 residence was Nevada, when in fact, and as SMITH well knew, he was not a resident of
23 Nevada, and that his current residence was 3749 Carlyle Dr, Apt. 57, Las Vegas, NV
24 89115, when in fact, and as SMITH well knew, he did not reside at that address.

1 SMITH's false statements were material; that is, the false statements had a natural
2 tendency to influence, or were capable of influencing the Sportsman's Warehouse into
3 believing that the specified firearm could be lawfully sold to the SMITH. Law
4 enforcement agents subsequently recovered the Taurus Armas model G3 9mm
5 semiautomatic pistol bearing serial number ABH813657 from a person other than
6 SMITH.

7 22. With regard to Count Six, the ATF investigation showed that C-A-L
8 Ranch Stores, is an FFL, that is, a licensed dealer of firearms within the meaning of
9 Chapter 44 of Title 18, United States Code. On January 11, 2021, SMITH completed
10 Section B of an ATF Form 4473 in connection with the purchase of three firearms from
11 C-A-L Ranch Stores: a Taurus Armas model G3c 9mm semiautomatic pistol bearing
12 serial number ABM262312; a Taurus Armas model G3c 9mm semiautomatic pistol
13 bearing serial number ABM262533, and; a SAR USA model SAR9 9mm semiautomatic
14 pistol bearing serial number T110220BV76045. SMITH represented that he was the
15 actual transferee/buyer of the firearms listed on the form, when in fact, and as SMITH
16 well knew, he was acquiring the firearms on behalf of other persons, that his current state
17 of residence was Nevada, when in fact, and as SMITH well knew, he was not a resident
18 of Nevada, and that his current residence was 3749 Carlyle Dr, Apt. 57, Las Vegas, NV
19 89115, when in fact, and as SMITH well knew, he did not reside at that address.

20 SMITH's false statements were material; that is, the false statements had a natural
21 tendency to influence, or were capable of influencing the C-A-L Ranch Stores into
22 believing that the specified firearms could be lawfully sold to the SMITH. Law
23 enforcement agents subsequently recovered the Taurus Armas model G3c 9mm
24 semiautomatic pistol bearing serial number ABM262312 and the SAR USA model SAR9

1 9mm semiautomatic pistol bearing serial number T110220BV76045 from persons other
2 than SMITH.

3 23. With regard to Count Seven, the ATF investigation showed that Spartan
4 Arms, is an FFL, that is, a licensed dealer of firearms within the meaning of Chapter 44
5 of Title 18, United States Code. On January 11, 2021, SMITH completed Section B of an
6 ATF Form 4473 in connection with the purchase of a firearm from Spartan Arms: a
7 Smith & Wesson model MP-40 .40 caliber semiautomatic pistol bearing serial number
8 NKV8810. SMITH represented that his current state of residence was Nevada, when in
9 fact, and as SMITH well knew, he was not a resident of Nevada, and that his current
10 residence was 3749 Carlyle Dr, Apt. 57, Las Vegas, NV 89115, when in fact, and as
11 SMITH well knew, he did not reside at that address. SMITH's false statements were
12 material; that is, the false statements had a natural tendency to influence, or were capable
13 of influencing the Spartan Arms into believing that the specified firearm could be lawfully
14 sold to the SMITH.

15 24. With regard to Count Eight, the ATF investigation showed that SMITH
16 was not licensed by the ATF to deal firearms. The investigation also showed that SMITH
17 willfully engaged in the business of dealing in firearms, as set out in this affidavit.

18 25. According to ATF records, the shortest elapsed time between the sale of one
19 of the 51 firearms to SMITH and its recovery from another person by law enforcement
20 was 45 days. The longest elapsed time was 360 days.

21 26. SMITH reported only one of the 8 recovered firearms as lost or stolen.
22 However, SMITH reported that firearm as stolen the day after law enforcement seized the
23 firearm from a person in Lancaster, California, who had previously been convicted of a
24 felony. A review of the toll records for SMITH's cell phone showed that SMITH had more

1 than 50 voice calls with a number registered to the felon from whom law enforcement
2 seized the firearm. A review of transaction records of SMITH's Zelle account showed that
3 SMITH had received \$1,500 in payments from the account of a person associated with the
4 felon from whom the firearm was recovered.

5 27. In order for private persons to lawfully transfer a firearm in California,
6 California law requires that the transfer or sale be conducted by an FFL. Under California
7 law, the FFL must record the sale and conduct the background check as if it were a
8 commercial sale. Firearms traces of ATF records and a check of California firearms
9 databases showed that none of the 8 firearms recovered by law enforcement as of the date
10 of this Complaint from eight different persons other than SMITH was reported as sold or
11 transferred from SMITH or to any of the 8 different persons from whom they were
12 recovered.

13 28. This investigation began on or about January 12, 2021, when the ATF Las
14 Vegas Field Office received a report that Kenneth Earl SMITH, Jr., had purchased
15 approximately twenty-six (26) firearms from three Cash America Super Pawn store
16 locations in Clark County, Nevada, in 12 separate transactions between March and
17 November of 2020. As of on or about January 12, 2021, California law enforcement
18 agencies in had recovered three (3) of those 26 firearms in California from persons other
19 than SMITH.

20 29. Through the course of the investigation, the ATF Las Vegas Field Office
21 learned that SMITH completed 30 different ATF Form 4473's from March 2020 through
22 August 2021 to purchase 51 firearms from multiple FFL's located in Las Vegas, Nevada
23 area. In each instance, on every ATF Form 4473, including the firearms described in
24 Counts One through Seven of this Complaint, SMITH falsely reported either 10120 W

1 Flamingo RD STE 4-1062 Las Vegas, NV 89147 or 3749 Carlyle Dr APT 57 Las Vegas,
2 NV 89115 as his current residence on ATF Form 4473. In each instance, on every ATF
3 Form 4473, including the firearms described in Counts One through Seven of this
4 Complaint, SMITH falsely reported himself to be a resident of Nevada, in order to
5 purchase firearms. In each instance, on every ATF Form 4473, including the firearms
6 described in Counts One through Seven of this Complaint, SMITH reported that he was
7 “the actual transferee/buyer of the firearm(s) listed on this form and any continuation
8 sheet,” in other words, that he was purchasing the firearms for himself. In each instance,
9 those false statements were intended and likely to deceive the FFLs as to a fact material to
10 the lawfulness of such sale of the firearms to SMITH.

11 30. On January 26, 2021, ATF Agents went to 10120 West Flamingo Road in
12 Las Vegas, Nevada to discover it was a PostNet location with rentable commercial
13 mailboxes. SA Mavronas spoke to the owner and manager, who stated SMITH had rented
14 a mailbox since February 2020, and that SMITH was the only authorized user of that box.
15 SMITH had reported his home address as 6040 Tulip Circle, Lancaster, CA 93536 in
16 response to questions 7a-7d on U.S. Postal Service PS Form 1583, Application for
17 Delivery of Mail Through Agent, when he leased the box. The language “Warning: The
18 furnishing of false or misleading information on this form or omission of material
19 information may result in criminal sanctions” just above the signature block of the PS
20 Form 1583.

21 31. On June 10, 2021, ATF Special Agent Spiros Mavronas obtained NV
22 Energy subscriber information for 3749 Carlyle Dr Apt 57 Las Vegas, NV 89115. NV
23 Energy showed that a person named S.J. had an account with NV Power at that address
24 from April 20, 2020 through November 16, 2020.

1 32. SA Mavronas interviewed S.J., who stated that she rented 3749 Carlyle Dr
2 Apt 57 Las Vegas, NV 89115 for about 6 months. S.J. stated that she did know SMITH,
3 but that she lived alone, that SMITH never lived or stayed with her at that address, nor
4 did she ever give SMITH permission to use her address.

5 33. On June 8, 2021, SA Mavronas obtained a copy of SMITH's Concealed
6 Firearm Permit (CCW) Application from an LVMPD Sergeant. The application showed
7 that SMITH completed an online initial application for a CCW on May 30, 2020. SMITH
8 claimed that he was a Nevada resident and listed his physical address as 10120 W
9 Flamingo RD STE 4-1062 Las Vegas, NV 89147. The CCW application form clearly
10 advised "Note: No P.O. Box Address." SMITH provided 6040 Tulip Circle, Quartz Hill,
11 CA 93536 as a mailing address. On June 10, 2020, SMITH signed an affidavit in the
12 presence of a LVMPD employee attesting to the information he provided in his online
13 application.

14 34. On June 11, 2021, SA Mavronas received Nevada Department of Motor
15 Vehicles (DMV) records from a Fraud Investigator with Nevada DMV. The record shows
16 that on February 20, 2020, SMITH went to Henderson DMV located at 1399 American
17 Pacific Drive in Henderson, Nevada, where SMITH obtained a Nevada driver's license by
18 listing 10120 W Flamingo RD STE 4-1062 Las Vegas, NV 89147 as his primary physical
19 address (principal residence). SMITH provided 6040 Tulip Circle Lancaster, CA 93536 as
20 his mailing address. On June 21, 2020, SMITH went online and changed his address to
21 3749 Carlyle DR APT 57, Las Vegas, NV 89115 and had that new driver's license mailed
22 to the mailing address on file, 6040 Tulip Circle Lancaster, CA 93536.

23 35. On June 24, 2021, SA Mavronas obtained a copy of SMITH's PostNet
24 application for rentable mailbox from S.C., the owner of PostNet located at 10120 W

1 Flamingo RD STE 4 Las Vegas, NV 89147 which shows that on February 17, 2020,
2 SMITH applied for and received a rentable mailbox #1062. SMITH provided a California
3 driver's license displaying 6040 Tulip Circle Lancaster, CA 93536 address and listed it as
4 his home address with PostNet.

5 36. In August 2021, SA Mavronas received SMITH's Bank of America (BOA)
6 statements history which showed that the majority of transactions conducted by SMITH
7 were in California, except for times of known firearms purchases in the Las Vegas,
8 Nevada area, where SMITH would have transactions to hotel and car rental service
9 businesses in the Las Vegas, Nevada area. The BOA statements also showed that during
10 the period covered by this investigation, SMITH received numerous substantial transfers
11 from individuals through Zelle.

12 37. On September 7, 2021, SA Mavronas received toll records from Verizon
13 Wireless for cellular phone number 661-524-XXXX. The records showed Kenneth E.
14 SMITH as the subscriber of Verizon account associated with that cell phone number with
15 the address listed as 6040 Tulip Circle Lancaster, CA 93536.

16 38. SA Mavronas found that SMITH had 19 voice calls with mobile number
17 661-365-YYYY associated with J.D.R., the possessor of the SCCY Industries model
18 CPX-2 9mm semiautomatic pistol bearing serial number 741731 (Count Four) that was
19 recovered by Police and originally purchased by SMITH. Bank records show SMITH
20 received two (2) Zelle payments in the amount of \$1 and \$1,499 from P.R., with the same
21 last name as J.D.R. A query of public records for P.R. shows J.D.R. listed as a possible
22 relative.

23 39. SA Mavronas found that SMITH had 58 voice calls with phone number
24 661-365-ZZZZ associated with M.N., the possessor of FN America model FN-509 9mm

1 semiautomatic pistol bearing serial number GKS0060988 (Count One) recovered by
2 Police and originally purchased by SMITH.

3 40. On October 4, 2021, SA Mavronas received records from Expedia showing
4 approximately sixty-six (66) hotel reservations conducted by SMITH which match the
5 Bank of America statements showing SMITH was renting hotel rooms in Las Vegas,
6 Nevada area during times of known firearm purchases.

7 41. On Monday, October 11, 2021, SA Mavronas learned that SMITH had
8 checked into a hotel in Las Vegas, Nevada. On October 12, 2021, ATF Agents
9 interviewed SMITH. SMITH provided written consent for the Agents to search the hotel
10 room and SMITH's car. Among other items, Agents both Nevada driver's licenses, one
11 bearing the 10120 W Flamingo Rd STE 4-1062 Las Vegas, NV 89147, and the other
12 bearing the 3749 Carlyle DR APT 57, Las Vegas, NV 89115 address, and the Nevada
13 CCW. Agents also found a receipt for a firearm SMITH purchased from Spartan Arms, an
14 FFL in Las Vegas, Nevada, on August 12, 2021. SA Mavronas obtained a copy of the
15 ATF Form 4473 for that sale from the FFL. The Form 4473 shows that SMITH falsely
16 represented himself to be a resident of Nevada and provided 3749 Carlyle DR APT 57,
17 Las Vegas, NV 89115 as his current address. The Form 4473 shows that SMITH presented
18 the Nevada Driver's License and the Nevada CCW, using the fraudulently obtained and
19 revoked CCW to bypass the background check, as described in COUNT SEVEN of this
20 Criminal Complaint. Those false statements were intended and likely to deceive the FFL
21 as to a fact material to the lawfulness of such sale of the firearm to SMITH.

22 42. SMITH confirmed a white Hyundai Sonata in the parking structure of the
23 hotel with California license plate BVCR626 belonged to him. A records check showed
24

1 that SMITH had registered the Hyundai Sonata in California on March 12, 2021, giving
2 6040 Tulip Circle Lancaster, CA 93536 as his residence.

3 43. On October 12, 2021, ATF Agents learned that on June 9, 2021, SMITH
4 had registered a business in California, naming it J&K Arms, L.L.C. SMITH listed 6040
5 Tulip Circle, Lancaster CA 93536-3741 as the address of the business, and listed his
6 cellular telephone as the telephone number for the business. As noted above, SMITH has
7 not been licensed by the ATF as an FFL.

8 44. Based upon evidence developed during the course of this investigation, ATF
9 Agents made a probable cause arrest of SMITH in the afternoon of October 12, 2021.

10 CONCLUSION

11 45. Based upon the information set forth in this application, your Complainant
12 respectfully submits that there is probable cause to believe that KENNETH EARL
13 SMITH, JR., violated 18 U.S.C. §§ 922(a)(6), and (g)(1), Illegal Acquisition of a Firearm,
14 and 18 U.S.C. §§ 922(a)(1)(A), 923(a), and 924(a)(1)(D), Engaging in the Business
15 Without a License (Firearms), as described above.

16 Respectfully Submitted,

17
18 
19 Special Agent Spiros Mavronas
20 Bureau of Alcohol, Tobacco, Firearms
and Explosives

21 Sworn and subscribed before me on October 14, 2021.

22
23 
24 THE HONORABLE NANCY J. KOPPE
UNITED STATES MAGISTRATE JUDGE